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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/213,856	12/17/1998	SCOTT ANTHONY MORGAN	AT9-98-343	6318

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EXAMINER
ARMSTRONG, ANGELA A

ART UNIT	PAPER NUMBER
2654	

DATE MAILED: 04/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/213,856	Applicant(s) MORGAN ET AL.	
	Examiner Angela A. Armstrong	Art Unit 2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 January 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-8,10-13 and 15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5-8,10-13 and 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1. In view of the Appeal Brief filed on January 23, 2002, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 09/213,858 in view of Morin (US Patent No. 5,748,841). Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims includes the limitations of predetermining a plurality of speech commands associated with a corresponding plurality of system actions, detecting speech commands and words associated with speech commands, displaying speech commands, performing the corresponding system action if a particular command is selected. Application No. 09/213,858 does not teach determining relevant commands or displaying relevant commands based on the detection of non-command speech terms. Refer to Morin et al who teach a computer speech recognition system which receives a speech input from the user, processed the speech input and determines if the speech input is related or representative of valid commands, and identifies to the user said valid system commands applicable to a computer application or program (col. 19, line 20 – col. 20, line 64), for the purpose of allowing users unfamiliar with available commands of an application to progressively build sentences which will have meaning to the application (col. 1, lines 15-20).

4. Therefore, it would have been obvious to one of ordinary skill at the time of invention to modify the speech recognition system of Application No. 09/213,858 to process speech input to determine if the speech input is related or representative of valid commands, and identify to the user the valid system commands, as taught by Morin et al, for the purpose of allowing users

unfamiliar with available commands of an application to progressively build sentences which will have meaning to the application, as also taught by Morin et al.

5. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brant et al. (US Patent No. 5,386,494) in view of Morin et al (US Patent No. 5,748,841).

8. Regarding claims 1, 6, and 11

Predetermining a plurality of speech commands for respectively initiating each of a corresponding plurality of system actions is taught by Brant at col. 6, lines 32-45

Detecting speech commands and non-command speech terms is taught by Brant at col. 6. lines 21-30; col. 2, lines 29-40

Displaying said speech command is taught by Brant at Figures 7-10

Brant does not specifically teach associating non-command speech terms with an associated command and displaying relevant commands based on the non-command speech

term. Refer to Morin et al who teach a computer speech recognition system which receives a speech input from the user, processed the speech input and determines if the speech input is related or representative of valid commands, and identifies to the user said valid system commands applicable to a computer application or program (col. 19, line 20 – col. 20, line 64), for the purpose of allowing users unfamiliar with available commands of an application to progressively build sentences which will have meaning to the application (col. 1, lines 15-20).

Therefore, it would have been obvious to one of ordinary skill at the time of invention to modify the speech recognition system for recognizing commands of Brant, to process speech input to determine if the speech input is related or representative of valid commands, and identify the relevant system commands, as taught by Morin et al, for the purpose of allowing users unfamiliar with available commands of an application to progressively build sentences which will have meaning to the application, as also taught by Morin et al.

9. Regarding claims 2, 7, and 12

Selecting a displayed command to thereby initiate a system action is taught by Brant at col. 6, lines 46-51 and col. 6, line 61 continuing to col. 7, line 3

10. Regarding claims 3, 8, and 13

Selecting displayed command include speech command input means is taught by Brant et al. at col. 6, lines 46-51

11. Regarding claims 5, 10, and 15

Relevance table of speech input commands and computer operation terms associated with input commands and relating speech terms of specific actions with command of the relevance

table is taught by Morin at col. 21, line 49 continuing to col. 22, line 45 and is taught by Brant at col. 6, line 31 continuing to col. 7, line 20; col. 7, lines 60-65; and col. 10, lines 39-57.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 703-308-6258. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

AAA
April 7, 2002

Richemond Dorvil
Primary Examiner